

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

John Doe,	:	
	:	Case No. 2:16-cv-00171
Plaintiff,	:	
	:	Judge George C. Smith
v.	:	
	:	Magistrate Chelsey M. Vascura
The Ohio State University,	:	
	:	
Defendant.	:	

**MEMORANDUM IN OPPOSITION TO
MOTION FOR PROTECTIVE ORDER**

Third Party Molly Brown filed a motion seeking a protective order following receipt of notification from Defendant, the Ohio State University that her Title IX file would be produced in this case. (ECF No. 103.) It is not entirely clear if Ms. Brown is seeking a protective order preventing OSU from producing the file relating to her Title IX investigation at all or simply asking the Court to enter a protective order requiring that the documents remain confidential. Regardless, the Court has already addressed both issues and there is no further relief available to Ms. Brown.

First, on October 15, 2018, the Court ordered OSU produce relevant files relating to investigations at OSU into other Title IX matters of similarly situated students, which includes Ms. Brown's file. (ECF No. 99.) The Court ruled that neither FERPA nor alleged burden of OSU prevented disclosure of the relevant comparative case files. (*Id.*, pp. 7-9.) Notably, OSU did not object to the relevancy of the documents. Thus, the issue of whether Ms. Brown's file is relevant and discoverable has been addressed by the Court.

Second, the Court's Order requires OSU to produce the documents pursuant to the Stipulated Protective Order (ECF No. 54), which protects the documents from being made public

and limits the use of the documents to the litigation, and to designate each document containing a student's identifying information as "CONFIDENTIAL—SUBJECT TO PROTECTIVE ORDER." (ECF No. 99, p. 9.) Thus, the relief Ms. Brown requests is already in place. The Court has taken appropriate action to protect Ms. Brown's privacy and shield her from harm and embarrassment. As the Court explained, consent of Ms. Brown is not required for production of the documents because (1) it is court-ordered, and (2) subject to a protective order. (*Id.*)

Accordingly, the Court should deny Ms. Brown's Motion for a Protective Order because it is unnecessary. All parties and the Court agree Ms. Brown's Title IX record is relevant and discoverable, that FERPA does not prevent disclosure of the records, and that the records will be produced pursuant to the Stipulated Protective Order governing production and use of documents containing confidential and personal information.

Respectfully submitted,

/s/ Tracy L. Turner

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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of February, 2019 I: (1) filed the foregoing with the Clerk of Court, who will send notification to all counsel via the Court's electronic filing system; and (2) sent a copy of the foregoing by e-mail to counsel for non-party Molly Brown, Kandra Roberts, J.D., LAV Attorney, Ohio Alliance to End Sexual Violence, 5 E. Long St. Suite 500, Columbus, Ohio 43215, kroberts@oaesv.org.

/s/ Tracy L. Turner

Tracy L. Turner